

### REMARKS

Claims 1-3, 6-27, and 29-32 are pending in the application with claims 1, 13, 20, and 27 being the independent claims. Claims 4, 5, and 28 have been cancelled. Applicants thank the Examiner for his thorough review and for allowance of claims 13-26. Reconsideration with respect to claims 1-3, 6-27, and 29-32 is respectfully requested in view of the foregoing amendments and the following remarks. Those amendments and remarks are believed to be fully responsive to the Office Action mailed April 29, 2009 and to render the elected claims at issue patentably distinct over the cited references and in condition for allowance. The foregoing amendments are taken in the interest of expediting prosecution, and there is no intention of surrendering any range of equivalents to which Applicants would otherwise be entitled in view of the prior art.

### DISCUSSION

#### I. Claim Rejections Under 35 U.S.C. Sec. 112

In the Office Action of April 29, 2009, the Examiner rejected claims 1-3 and 6-12 under 35 U.S.C. Sec. 112 on the ground that the claim language reciting “interior design component samples” is not supported by the original disclosure. As a preliminary matter, Applicants thank the Examiner for the telephone conversation of May 18, 2009 during which the Examiner indicated that claims 1-3 and 6-12 would be allowable if the word “interior”, as inserted in the claims by the Amendment and Response Accompanying Request for Continued Examination (RCE) of February 11, 2009, was removed from the claims. Accordingly, to expedite prosecution, and to broaden the claims, the limitation “interior” as added in the February 11, 2009 document is removed from claims 1-3, 6-12, 27, 29, and 31-32. It is believed, therefore, that the Section 112 rejection has been overcome.

#### II. Claim Rejections Under 35 U.S.C. Sec. 102(e)

In the Office Action of April 29, 2009, the Examiner rejected claims 27, 29, and 31 under 35 U.S.C. Sec 102(e) as being anticipated by U.S. Patent No. 6,729,883 B1

issued to Molly Raiche on May 4, 2004 (hereinafter “Raiche”). For the following reasons, Applicants respectfully traverse the Examiner’s rejections.

Amended independent claim 27 is directed to an apparatus for viewing a plurality of design components. The apparatus comprises a first plurality of design component samples comprising carpet samples, wall and/or household paint samples, textile samples, or fabric samples. At least one design component sample of the first plurality is adapted to be rotated about an axis. The apparatus also comprises a second plurality of design component samples disposed adjacent the first plurality of design component samples. The second plurality of design component samples comprises carpet samples, wall and/or household paint samples, textile samples, or fabric samples. At least one design component sample of the second plurality is adapted to be rotated about the axis. A third plurality of design component samples is disposed adjacent the second plurality of design component samples. The third plurality of design component samples comprises carpet samples, wall and/or household paint samples, textile samples, pattern samples, or fabric samples. At least one design component sample of the third plurality is adapted to be rotated about the axis. The first plurality, the second plurality and the third plurality are configured such that the at least one design component sample of each of the first plurality, the second plurality and the third plurality can be viewed together. The first plurality of design component samples and the second plurality of design component samples comprise the same design component samples.

Raiche does not anticipate amended independent claim 27 because Raiche fails to disclose all of the elements of these independent claim. In contrast to claim 27, nowhere does Raiche disclose a first plurality of first design component samples comprising carpet samples, wall and/or household paint samples, textile samples, or fabric samples. Further, nowhere does Raiche disclose a second plurality of second design component samples comprising carpet samples, wall and/or household paint samples, textile samples, or fabric samples. In addition, Raiche does not disclose a third plurality of design component samples comprising carpet samples, wall paint samples, textile samples, pattern samples, or fabric samples.

Raiche is in no way related to interior design or interior design components. Raiche merely discloses a numeric teaching device with spinning wheels depicting

numbers. There is no anticipation when prior art use is different. Union Oil Co. of Calif. v. Atlantic Richfield Co., 208 F.3d 989, 54 USPQ.2d 1227 (Fed. Cir. 2000), cert. denied, 531 U.S. 1183 (2001). Thus, because Raiche fails to disclose every element of independent claim 27, it cannot anticipate claim 27, or claims 29 and 31 that depend therefrom.

### III. Claim Rejections Under 35 U.S.C. Sec. 103(a)

In the Office Action of April 29, 2009, the Examiner rejected claims 27, 29, and 31-32 under 35 U.S.C. Sec 103(a) as being unpatentable over U.S. Patent No. 3,246,411 issued to A. O. Aafedt on April 19, 1966 (hereinafter “Aafedt”) in view of U.S. Patent No. 2,065,624 issued to F. Summers on December 29, 1936 (hereinafter “Summers”). For the following reasons, Applicants respectfully traverse the Examiner’s rejections.

Claims 29 and 31-32 depend from amended independent claim 27. Applicant respectfully submits that a *prima facie* case of obviousness has not been made out by the Examiner with respect to independent claim 27 because every critical element appearing in the claim is not disclosed by Aafedt and Summers, either alone or in combination. Aafedt discloses a scoreboard and has nothing to do with interior design or design component samples comprising carpet samples, wall and/or household paint samples, textile samples, or fabric samples. Summers likewise discloses a scoreboard and has nothing to do with interior design or interior design component samples such as those articulated in the claims. In contrast to claim 27, nowhere does Aafedt and Summers disclose a first plurality of first design component samples comprising carpet samples, wall and/or household paint samples, textile samples, or fabric samples. Further, nowhere does Aafedt and Summers disclose a second plurality of second design component samples comprising carpet samples, wall and/or household paint samples, textile samples, or fabric samples. In addition, Aafedt and Summers do not disclose a third plurality of design component samples comprising carpet samples, wall and/or household paint samples, textile samples, pattern samples, or fabric samples. While the examiner asserts that the numbers on the scorecards are “patterns”, the numbered scorecards are used for keeping score of a game and one of ordinary skill in the interior design arts would not think to modify a scoreboard to obtain an interior design apparatus

having at least a first plurality and a second plurality of design component samples comprising carpet samples, wall and/or household paint samples, textile samples, or fabric samples. Thus, because Aafedt and Summers fail to disclose every element of independent claim 27, they do not render claim 27, or claims 29 and 31-32 that depend therefrom, obvious.

In the Office Action, the Examiner also rejected claim 30 under 35 U.S.C. Sec 103(a) as being unpatentable over Raiche in view of U.S. Patent No. 4,651,992 issued to Danino et al. on March 24, 1987 (hereinafter "Danino"). For the following reasons, Applicants respectfully traverse the Examiner's rejections.

Claim 30 depends from amended independent claim 27. Applicant respectfully submits that a *prima facie* case of obviousness has not been made out by the Examiner with respect to independent claim 27 because every critical element appearing in the claim is not disclosed by Raiche and Danino, either alone or in combination. In contrast to claim 27, nowhere do Raiche and Danino disclose a first plurality of first design component samples comprising carpet samples, wall and/or household paint samples, textile samples, or fabric samples. Further, nowhere do Raiche and Danino disclose a second plurality of second design component samples comprising carpet samples, wall and/or household paint samples, textile samples, or fabric samples. In addition, Raiche and Danino do not disclose a third plurality of design component samples comprising carpet samples, wall and/or household paint samples, textile samples, pattern samples, or fabric samples. As noted above, Raiche discloses a numerical teaching device and has nothing to do with interior design or design component samples comprising carpet samples, wall and/or household paint samples, textile samples, or fabric samples. Danino discloses a puzzle-type game and has nothing to do with interior design or design component samples such as those articulated in the claims. The numbered wheels of Raiche are used to create different numeric formulations. (See, Abstract) The numbered wheels of Danino are used to provide a correct solution to an arithmetical equation. (Col. 3, lines 6-10) One of ordinary skill in the interior design arts simply would not think to modify such numerical teaching tools/puzzles to obtain an interior design apparatus having at least a first plurality and a second plurality of design component samples comprising carpet samples, wall and/or household paint samples, textile samples, or fabric samples.

Thus, because Raiche and Danino fail to disclose every element of independent claim 27, they do not render claim 27, or claim 30 that depends therefrom, obvious.

#### CONCLUSION

In conclusion, for the reasons given above, all claims now presently in the application are believed allowable and such allowance is respectfully requested. Should the Examiner have any questions or wish to further discuss this application, Applicant requests that the Examiner contact the undersigned attorney at (480) 385-5060.

If for some reason Applicant has not requested a sufficient extension and/or have not paid a sufficient fee for this response and/or for the extension necessary to prevent abandonment on this application, please consider this as a request for an extension for the required time period and/or authorization to charge Deposit Account No. 50-2091 for any fee which may be due.

Respectfully submitted,  
INGRASSIA FISHER & LORENZ

Dated: June 1, 2009

By: /DEBORAH HENSCHIED/  
Deborah Henscheid  
Reg. No. 35,940  
(480) 385-5060  
Customer No. 29,906